

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Actava TV, Inc., Master Call Communications, Inc.,
Master Call Corporation, and Rouslan Tsoutiev,

18-CV-06626 (ALC) (KNF)

Plaintiffs,

-against-

ORDER

Joint Stock Company "Channel One Russia Worldwide,"
Closed Joint Stock Company "CTC Network," Closed
Joint Stock Company "New Channel", Limited Liability
Company "Rain TV-Channel," Closed Joint Stock
Company "TV DARIAL," Limited Liability
Company "Comedy TV," and Kartina Digital GmbH

Defendants.

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KEVIN NATHANIEL FOX, United States Magistrate Judge.

The President of the United States has declared a national emergency due to the spread of the COVID-19 virus, and the Centers for Disease Control have noted that the best way to prevent illness is to minimize person-to-person contact. In order to protect public health while promoting the "just, speedy, and inexpensive determination of every action and proceeding," Fed. R. Civ. P. 1 and in further compliance with Local Civil Rule 30.2 and the Standing Orders recently issued by Chief Judge McMahon;

In the event a party elects to conduct a deposition remotely during the national emergency, it is hereby **ORDERED**:

1. Remote Deposition

- a. At all depositions, the witness, counsel for the parties, the court reporter and representatives of the parties may attend via Zoom, Skype, or another technology that allows reasonably clear audio and video communication with the witness and that allows video recording of the deposition.

- b. Counsel shall advise chambers of the date and time of the deposition and, if a dispute arises during the deposition, shall immediately telephone chambers at (212) 805-6705 or other technological means with the court reporter on the line.
- c. If the witness will testify in a language other than English, counsel taking the deposition shall arrange for a court-certified interpreter.
- d. Pursuant to Rule 29 of the Federal Rules of Civil Procedure, the parties stipulate that the court reporter may take the deposition via remote means in a different jurisdiction than the witness provided that (a) the video communication depict both the deponent and counsel questioning the witness, and (b) the video recording shall depict the deponent.
- e. At least twelve (12) hours before the scheduled start of the deposition, counsel taking the deposition shall provide to opposing counsel the name and contact information of the court reporter taking the deposition.
- f. At least twelve (12) hours before the scheduled start of the deposition, counsel taking the deposition shall provide pre-marked copies of Exhibits to opposing counsel and the court reporter via email (compressed, if necessary) or FTP for identification purposes only.
- g. At least twenty-four (24) hours before the scheduled start of the deposition, counsel taking the deposition shall disclose to opposing counsel any audio-visual demonstrations intended to be used.
- h. At least twelve (12) hours before the scheduled start of the deposition, counsel taking the deposition shall provide meeting invitations or other login credentials to opposing counsel and the court reporter.

- i. At least twelve (12) hours before the scheduled start of the deposition, counsel taking the deposition and opposing counsel shall disclose all persons attending the deposition in person and via remote means.
- j. The parties stipulate that the court reporter may administer the oath to the witness via Zoom, Skype or other videoconferencing technology.
- k. The deposition may be recorded by the means described in 1.a. Upon request of opposing counsel, counsel taking the deposition shall provide a copy of the video file of the deposition as soon as practicable.
- l. The failure of any technology, including the inability to commence or complete the deposition, shall not result in a waiver or any right by any party and counsel shall work to resolve any issues arising due to technological failures. If there is a technical delay of less than one (1) hour, counsel conducting the deposition may elect to add the lost time caused by the technical delay to scheduled end time. If there is a technical delay of more than one (1) hour, counsel conducting the deposition may elect to reschedule the remaining portion of the deposition to a later date.

2. Conduct of the Remote Deposition

- a. The parties stipulate to reserving, not waiving, their objections until the time of trial, except objections as to form.
- b. The parties stipulate that while on the record, they will only communicate with their witness via Zoom, Skype, or another technology that allows reasonably clear audio and video communication with the witness that can be heard by all counsel, court reporter, and the witness.

- c. The witness shall not refer to any documents or materials during the deposition, except for exhibits shown to the witness by counsel. If the witness takes notes during the deposition, such notes shall be provided to counsel for all parties at the conclusion of the deposition.

3. Defendants' Deposition of Plaintiffs

- a. Rouslan Tsoutiev shall appear for deposition via Zoom, with questioning limited to seven (7) hours over one day. Defendants reserve the right to seek additional time to depose Mr. Tsoutiev, if necessary. Mr. Tsoutiev will answer questions in his individual capacity and as a 30(b)(6) representative of Actava TV, Inc., Master Call Communications, Inc., and Master Call Corporation, concerning the deposition notices of December 18, 2019;
- b. Irina Pliss shall appear for deposition via Zoom, with questioning limited to seven (7) hours over the course of one day, concerning the deposition notice of June 26, 2020;
- c. Tatyana Zhevnerova shall appear for deposition via Zoom, with questioning limited to seven (7) hours over the course of one day, concerning the deposition notice of October 9, 2020;
- d. Andrey Makhotin shall appear for deposition via Zoom, with questioning limited to seven (7) hours over the course of one day, concerning the deposition notice of June 26, 2020;
- e. Plaintiffs shall produce responsive, non-privileged documents and tangible things at least seven (7) days prior to the date of the deposition.

- f. Plaintiffs will supply Rouslan Tsoutiev and the other witnesses with any necessary technical equipment for the deposition (*e.g.*, assuming the parties use Zoom, a laptop with a high-speed internet connection, a camera, a microphone, and a Zoom account).
 - g. Each party or its counsel shall provide any necessary technical equipment for its own use and for the use of its counsel.
 - h. Defendants shall make and bear the cost of all other arrangements for the deposition, including the court reporter.
4. Plaintiffs' Deposition of Defendants
- a. Defendants' 30(b)(6) representatives shall appear for deposition via Zoom, with questioning limited to five (5) hours over one day, concerning the deposition notices of April 30, 2020 and December 14, 2020. Plaintiffs reserve the right to seek an additional two (2) hours over one day, if necessary, with respect to the depositions of Channel One and Kartina's 30(b)(6) representatives.
 - b. Defendants shall produce responsive, non-privileged documents and tangible things at least seven (7) days prior to the date of the deposition;
 - c. Plaintiffs' depositions of Defendants shall begin at 8 a.m. Eastern Standard Time, in order to accommodate the seven- and eight-hour time zone difference with Germany and Russia, respectively, assuming Defendants' representatives are located in Germany and Russia at the time of the depositions;
 - d. Defendants will supply the 30(b)(6) witnesses with any necessary technical equipment for the deposition (*e.g.*, assuming the parties use Zoom, a laptop with a high-speed internet connection, a camera, a microphone, and a Zoom account).

- e. Each party or its counsel shall provide any necessary technical equipment for its own use and for the use of its counsel.
 - f. Plaintiffs shall make and bear the cost of all other arrangements for the deposition, including the court reporter.
5. Court Reporter
- a. Counsel taking the deposition shall provide a copy of this order to the court reporter at least twelve hours before the taking of the deposition.

IT IS SO ORDERED.

Dated this 17 day of December 2020

A handwritten signature in black ink that reads "Kevin Nathaniel Fox". The signature is written in a cursive, flowing style.

Hon. Kevin Nathaniel Fox, U.S.M.J.